

**COMBINED TRANSMITTAL OF APPEAL BRIEF TO THE BOARD OF PATENT
APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME
UNDER 37 C.F.R. 1.136(a) (Small Entity)**

Docket No.
A-7942

In Re Application Of: Toshio HARIMA

AUG 05 2005

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|-------------------------------|------------------------------|-----------------------|-----------------------|------------------------|--------------------------|
| Application No. 10/625,531 | Filing Date June 24, 2003 | Examiner Bumgarner | Customer No. 20741 | Group Art Unit 3732 | Confirmation No. 8157 |
|-------------------------------|------------------------------|-----------------------|-----------------------|------------------------|--------------------------|

Invention: **ORTHODONTIC WIRE RETAINER**

COMMISSIONER FOR PATENTS:

This is a combined Transmittal of Appeal Brief to the Board of Patent Appeals and Interferences and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing an Appeal Brief.

Applicant(s) hereby request(s) an extension of time of (check desired time period):

☒ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: July 25, 2005 until: August 25, 2005
Date Date

The fee for the Appeal Brief and Extension of Time has been calculated as shown below:

Fee for Appeal Brief: \$250.00

Fee for Extension of Time: \$60.00

TOTAL FEE FOR APPEAL BRIEF AND EXTENSION OF TIME: \$310.00

The fee for the Appeal Brief and extension of time is to be paid as follows:

☒ A check in the amount of **\$310.00** for the Appeal Brief and extension of time is enclosed.

☐ Please charge Deposit Account No. _____ in the amount of _____

☒ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. **08-2455**

☒ Any additional filing fees required under 37 C.F.R. 1.16.

☒ Any patent application processing fees under 37 CFR 1.17.

☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **08-2455**

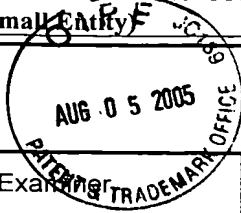
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In Re Application Of: **Toshio HARIMA**



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Invention: **ORTHODONTIC WIRE RETAINER**

TO THE COMMISSIONER FOR PATENTS:

This combined Transmittal of Appeal Brief to the Board of Patent Appeals and Interferences and petition for extension of time under 37 CFR 1.136(a) is respectfully submitted by the undersigned:



Signature

Dated: *August 5, 2005*

Christopher J. McDonald
Reg. 41,533
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Toshio HARIMA

Examiner: **Bumgarner**

Serial No: **10/625,531**

Group Art Unit: 3732

Filed : **June 24, 2003**

For : **ORTHODONTIC WIRE RETAINER**

APPLICANT'S APPEAL BRIEF
UNDER 35 U.S.C. §41.37

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

(1) REAL PARTY IN INTEREST

The real party in interest is the inventor, Toshio Harima.

(2) RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

(3) STATUS OF CLAIMS

Claims 1-10 are pending. All claims are rejected and appealed.

(4) STATUS OF AMENDMENTS

An Amendment After Final Rejection was filed on April 11, 2005. The amendment is entered for purposes of appeal.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

An orthodontic wire retainer is applied to a dental arch following an orthodontic treatment. The wire retainer has a first wire **11**, extending along the posterior surface of the dental arch **10**, a second wire **12**, extending in a loop along the anterior surface of the dental arch **10**, and a third wire **13**, fitting between a bicuspid tooth **20** and a premolar **30** and attached to the first and second wires **11**, **12**. Once joined, the first, second and third wires form an integral bridge **14**, providing resilient support for the arch. The support forms a dental arch bracing appliance, transmitting orthodontic pressure. To further prevent sinking of the wire retainer, a wire clasp **16** lays along the buccal surface of the premolar, as shown in Figure 3. As seen in this figure, the wire clasp has a general W-shape when seen from the side. The wire clasp **16** is attached to the first metal wire **11** to sustain strength of the wire retainer. The wire clasp **16** holds both the buccal surface and lingual surface of the premolar and prevents sinking of the first metal wire. In addition to the wire clasp **16**, a wire rest **17** rests upon the premolar **40**. The wire rest attaches to the first metal wire **11** and prevents elongation of the premolar and sinking of the wire retainer. The wire rest is most clearly seen in Figure 4.

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1) Claims 1-10 rejected under 35 USC 112, second paragraph as failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2) Claims 1-5, 7, 8 and 10 rejected as anticipated by US patent 4,725,230 (Harima).

3) Claims 6 and 9 rejected as being obvious over Harima.

(7) ARGUMENT

Rejection under 35 USC 112, second paragraph

Claims 1-10 are rejected as being indefinite, as the Examiner does not see how the wire rest is spaced from the end of the first wire.

Attached to this response is an annotated Figure 2 showing the claimed elements. Seen in this view is the first wire 11 extending past the two molars 40. The end of the first wire is spaced near the second molar. The wire rest, extending from the first wire 11, is shown as positioned between the premolar 30 and first molar. Therefore, the rest 17, while extending from the first wire, is spaced from the end of the first wire, as is claimed.

Rejection as anticipated under 35 USC 102(b) by US patent 4,725,230

The Examiner rejects claims 1-5, 7, 8 and 10 as being anticipated by U.S. Patent 4,725,230 (Harima). The retainer disclosed by Harima does not have a wire rest meeting this limitation of claim 1. In the rejection, the Examiner states that Figure 1 of Harima shows a wire rest spaced from the end of the first wire, having a first section attached to the first wire and extending toward the second wire and being L-shaped. No reference numerals are provided in the rejection and no such structure is seen by Applicant in Figure 1.

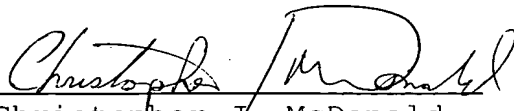
Rejection of claims 6 and 9 under 35 USC 103(a) by US patent 4,725,230.

The Examiner rejects claims 6 and 9 as obvious over Harima and states that it would have been obvious to have the

second section of the L-shaped wire rest extend toward the third wire. While the structure relied upon by the Examiner as the wire rest is not clear to applicant, there is no teaching reference to support the modification proposed by the Examiner.

It is respectfully requested that the Examiner's rejections be reversed and the claims allowed.

Respectfully submitted,


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August 3, 2005
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CLAIMS APPENDIX

1. An orthodontic wire retainer, comprising
a first metal wire for conforming to the posterior surface of a dental arch;
a second metal wire for conforming to the anterior surface of the dental arch;
a pair of third metal wires extending between the first metal wire and second metal wire;
said third metal wires attached to said first and second metal wires to form an annular bridge providing a resilient support for teeth along the dental arch;
a wire rest extending from said first wire for resting upon the top surface of the dental arch, said wire rest spaced from the end of the first wire.

2. The orthodontic wire retainer of claim 1, further comprising a wire clasp.

3. The orthodontic wire retainer of claim 2, wherein said wire clasp is W-shaped.

4. The orthodontic wire retainer of claim 1, wherein said wire rest is L-shaped.

5. The orthodontic wire retainer of claim 1, wherein said wire rest has a first section attached to said first wire and extending toward said second wire.

6. The orthodontic wire retainer of claim 5, wherein said wire rest has a second section attached to said first section and extending toward said third wire.

7. The orthodontic wire retainer of claim 1, further comprising

a second wire rest extending from said first wire for resting upon the top surface of the dental arch, said second wire rest spaced from the end of the first wire.

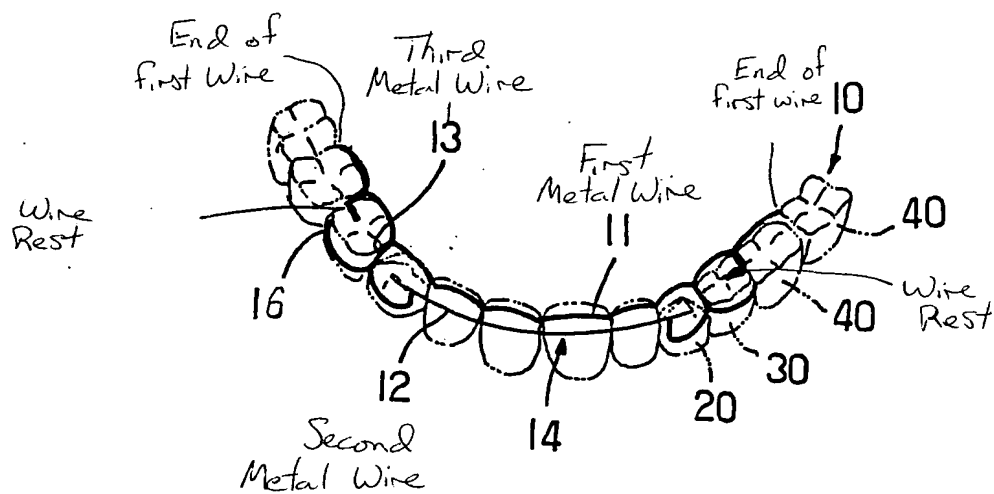
8. The orthodontic wire retainer of claim 7, wherein said second wire rest has a first section attached to said first wire and extending toward said second wire.

9. The orthodontic wire retainer of claim 8, wherein said second wire rest has a second section attached to said first section and extending toward said third wire.

10. The orthodontic wire retainer of claim 7, wherein said second wire rest is L-shaped.



EVIDENCE APPENDIX



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RELATED PROCEEDINGS APPENDIX

None